Previous references.

1906-07
(Courts)

Cts File No. 144-0

Serial Nos. 1-3.

Later references.
Regis 37-17 Col-3.
CB. 48-52-62.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-3

Part B. for March 1907.

SUBJECT.

R.A. Subject no 41-06. The power of issuing affidavits to be delegated to Taluk Sheristadars and Sub Registrars.

Contents

1 To The Registrar, Chief Court. no 14099 27-11-06
Requests that Govt. may be favoured with the opinion of the Chief Court in the matter.

G. R. S. 58
2 From the Finance Officer. no 3276/1758 of 10-12-06
forwards a copy of the opinions of the Judges of the Chief Court in the matter.

3

To

The Registrar of the Chief Court of Mysore.

" Revenue Commissioner in Mysore.

" Dy. of Registration

" Dy Commissioner of Mysore District for Communication to the member concerned.

" Dy Comrs of other Districts

No J 2613-23 dy 28-2-07.

Accepts the view of the Chief Court that it is sufficient to invest Sub Registrar including such of the Taluk Sheristadars as are ex officio Sub Registrars with the power to administer the oath to declarants under Sec 197 of the Civil Procedure Code and requests that the necessary action may be taken by the Chief Court under clause (b) of the said section.

G.R.S. 11] 1906.

GENERAL AND REVENUE SECRETARIAT

(III Courts)

NOTES.

C5 File. No. 144—06

FILE HEADING.

D.R.A Subject No 41 of 1906. The power of signing affidavits to be delegated to Taluk Sheristadars & Sub Registrars.

From

No.	Dated	Received
Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

1 To the Registrar, Chief Court. No J 1409 & 27.11—06.
Requests that favour may be favoured with the opinion of the Chief Court in the matter.

J/1481. 2 From the Same. No 3276/175 & 10.12—06.
forwards a copy of the opinions of the Judges

NOTES—First sheet.

GPB—30,000—20-3-06.

Serial No.

of the Chief Court in the matter.
Submitted with references. (See flags V & X
SO
19.12.06.
B.G.
20.12.06 V I think the view taken by Mr. Justice Kinchants may be accepted and all Sub-Registrars and all Taluk Sheristadars who are Ex-officio Sub-Registrars may be empowered to sign affidavits when the Amildars are absent from head-quarters
Secy)
WS
26/12/06

Please read the Summary of Petition & reply put in for CS, the Order of the Chief Court dated 15 & dated, & pass an order as follows:-
"The Govt accept the views of the Judges of the Chief Court - that it is sufficient to give Sub Registrars, including such Taluk Sheristadars as are ex officio Sub Registrars, power to administer the oath to declarants under Section 187 of the Civil Pro. Code. It is requested that the necessary

GPB—50,000—23-10-05

Serial No.

action may be taken by the Chief Court under clause (b) of the said section. I submit the draft to the Dewan thro' the Ad Cr

WS 28/12/06

Subd with a draft, as directed.

KV. 31.12.06. SV 31/12

Dft- subd to the Dewan thro' the 1st Cr.

1808 2.1.07 Hudig ar

WS 31/12/06

3748 15.2.07 (Draft appd)

WS 12/2/07

WS 21/2/07

3 To the Registrar of the Chief Court of Mysore
" the Dist. Courts in Mysore
" the I.G. of Registration
" the Dy Comrs of Mysore &c for communication to the Members thereof
" the Dy Comrs of the Districts

No C.-613-25 28/2/07

MGCPB—50,000—24-7-05

ab 1. M. 4. 06. 1.

1

SUBJECT No. 41.

The power of signing affidavits to be delegated to Taluk Sheristadars and Sub-Registrars.

Mr. Raghavachar.

Summary of discussion.—Regarding the affidavits to be produced in Civil Courts, the practice at present is that they should be signed by Magistrates. When the Amildars are at head-quarters, there is no difficulty; but when they are out on circuit, people are put to great trouble. It is therefore prayed that Sub-Registrars and Taluk Sheristadars may be empowered to sign these affidavits during the absence of Amildars.

Reply of Government.—Section 197 of the Civil Procedure Code provides that the oath may be administered by any Court or Magistrate or any officer whom the Chief Court or any other authorised Court may appoint in this behalf. The representation is noted and will be referred to the Chief Court.

To the Registrar
Chief Court

I am to invite his attention to the marginally noted Subject of the Representation Assembly Proceedings of 1906 and the reply of Govt thereto, and to request that he will be so good as to favor Govt with the opinion of the Chief Court in the matter.

I have the honor to be
Sir
Your most obedient servant
Secretary

* Subject No 41
The power of signing affidavits to be delegated to Taluk Shers & Sub Regrs.

No. J 140 & D/27/11/06.
CS 144-06-1

Secretary

J 1481 2

Bangalore, Dated 10th December 1906.

From

The Registrar of the

Chief Court of Mysore,

Bangalore.

To

K.S.Chandrasekhara Iyer Esquire,

Secretary to Government,

General and Revenue Departments.

Sir,

Referring to your docket No.J 1409 dated the 27th November 1906 inviting attention to subject No.41 of the Representative Assembly Proceedings of 1906 and the reply of -- Government thereto re power of signing affidavits to be delegated to Taluk Sheristadars and Sub Registrars, I am directed to forward herewith a copy of the opinions of the Judges of this Court in the matter.

I have the honor to be,

Sir,

Your most obedient servant.

For REGISTRAR.

Opinion of the Chief Judge.

I would under Section 197 Civil Procedure Code invest all Sub Registrars by virtue of their office but I should certainly not invest any Taluk Sheristadar except on good cause shown. Such cause to be shown in each individual case.

Sd/. L. Moore.

Chief Judge.

Opinion of Mr: Justice H.V.Nanjundayya.

I see no harm in giving this power to Taluk Sheristadars and Sub Registrars in such places as may be shewn to need it.

Sd/. H.V.Nanjundayya.

Judge.

Opinion of Mr: Justice P.S.Krishna Rao, Rao Bahadur.

I am not in a position to say whether any real inconvenience is felt by the people in this respect. But if such inconvenience does exist, I would recommend only Sub Registrars being invested with the power of administering oath on solemn affirmation under Section 197, clause (b) of the Code of Civil Procedure.

The persons appointed Commissioners in England for the purpose of administering oaths are, except in the case of the Chief Clerks of Superior Courts who are specially empowered to administer oaths only if the affidavits are made for the purpose of some proceeding in the courts to which they are attached, persons who are legally authorised to administer oaths under some other provision of law and who possess their own ~~seats~~ seals, so that judicial notice may be taken of their seals and signatures. Sub Registrars have power to administer oaths under Section 63 of the Registration Act III of 1877 and they also possess seals of their own. There can be no objection, therefore to their being appointed Commissioners to administer oath to a declarant under Chapter XVI of the Civil Procedure Code.

As regards Taluk Sheristadars only some of them are ex-officio Sub Registrars empowered to administer oaths. The rest are not empowered to administer oath, since they are neither

Sub Registrars nor Magistrates. The appointment of these latter as Commissioners is not, therefore, in my opinion advisable.

Under Section 197 of the Code of Civil Procedure, read with Section 15 of the General Clauses Regulation III of 1899, all persons exercising the functions of a Sub Registrar may be appointed Commissioners by virtue of their office.

There is no need to appoint District Registrars to be Commissioners, as they are all Deputy Commissioners of Districts and as such are District Magistrates under the Code of Criminal Procedure.

Sd/ P.S.Krishna Rao.

Judge.

"Copy"

G.R.S. 28]

Ch 144—6

4

File No. 144-06

Serial No. 3

Diary No. of letter replied to

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.

( )

, the 190

Date of issue 28th Feb 07

Signed by Mr Hamilton.

READ.—

Summary of discussion of Subject no. 41 of the Representative Assembly Proceedings of 1906 re the power of signing affidavits to be delegated to Taluk Sheristedars & Sub-Registrars &. the reply of Govt. thereto.

~~ORDER THEREON.—No.~~

[Print in Extenso]

(2) Letter no: 3276/175 dated 10.12.06 from the Registrar, Chief Court, forwarding the opinion of the ~~Chief Court~~ Judges in the matter

over

SUBJECT

MGCPB—20,000—24-2-05

Order thereon: no J2613-26 dated 20th Feb 07.
Ct 1664-06-3

The Govt. accept the view of the Judges of the Chief Court that it is sufficient to invest Sub-Registrars, including such Taluk Sheristadars as are Ex-officio Sub-Registrars, with the power to administer the oath to declarants under Section 197 of the Civil Procedure Code. (flag Y)

2. It is requested that the necessary action may be taken by the Chief Court under clause (b) of the said Section.

3189

Thus q/Feb

Both

W 31/12/06

for Secretary. 31/12/06 2/2/07

K.V. 31.12.06 31/12/06

To.

The Registrar, Chief Court ✓
The Revenue Commissioner.
The I. G. of Registration ✓
The Dy. Commissioners of ~~the~~ Dists.

for information & communication to the members concerned

Dy Comrs of other Districts

Copies sent 2/2/07

1906-07

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

JUDICIAL AND LEGISLATIVE
(COURTS)

PROCEEDINGS

Dated 28th February 1907

No. J. 2613-23
Cts. 144 of 06-3

Investing Sub-Registrars including such Taluk Sheristadars as are *ex-officio* Sub-Registrars with power to administer the oath to declarants under Section 197 of the Civil Procedure Code.

GPB—11-3-07—450

Proceedings of the Government of His Highness the Maharaja of Mysore, Judicial and Legislative (Courts), dated 28th February 1907.

READ—

1. Summary of discussion of Subject No. 41 of the Representative Assembly Proceedings of 1906 *re* the power of signing affidavits to be delegated to Taluk Sheristadars and Sub-Registrars and the reply of Government thereto :—

Summary of discussion.—Regarding the affidavits to be produced in Civil Courts, the practice at present is that they should be signed by Magistrates. When the Amildars are at head-quarters, there is no difficulty; but when they are out on circuit, people are put to great trouble. It is therefore prayed that Sub-Registrars and Taluk Sheristadars may be empowered to sign these affidavits during the absence of Amildars.

Reply of Government.—Section 197 of the Civil Procedure Code provides that the oath may be administered by any Court or Magistrate or any officer whom the Chief Court or any other authorized Court may appoint in this behalf. The representation is noted and will be referred to the Chief Court.

2. Letter No. 3276—175, dated 10th December 1906, from the Registrar, Chief Court, forwarding the opinion of the Judges in the matter.

No. J. 2613-23—Cts. 144-06-3, DATED BANGALORE, THE 28TH FEBRUARY 1907.

ORDER THEREON.—The Government accept the view of the Judges of the Chief Court that it is sufficient to invest Sub-Registrars including such Taluk Sheristadars as are *ex-officio* Sub-Registrars with the power to administer the oath to declarants under Section 197 of the Civil Procedure Code.

2. It is requested that the necessary action may be taken by the Chief Court under clause (*b*) of the said section.

K. S. CHANDRASEKHARA AIYAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Registrar, Chief Court of Mysore.
The Revenue Commissioner in Mysore.
The Inspector-General of Registration in Mysore.
The Deputy Commissioner, Mysore District, for information and communication to the members concerned.
The Deputy Commissioners of other districts.

Exd.—C. V.